



2002P13157US01; 60,427-608

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Vanderveen
SERIAL NO.: 10/638,219
FILED: 8/8/2003
GROUP ART: 3747
EXAMINER: Harris, Katrina B.
FOR: Air Cleaner, Valve Cover and Intake Manifold Assembly

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO REVIVE AN ABANDONED APPLICATION
UNDER 37 CFR 1.137**

Dear Sir:

Applicant recently received a Notice of Abandonment dated September 23, 2005 indicating that applicant failed to timely file a proper reply to the final Office Action dated February 23, 2005.

Applicant filed a response to this final Office Action on April 20, 2005, which was within the two month time period calculated from the mailing date of the final Office Action. A copy of the facsimile transmission for this response is attached at Appendix A. As such, the examiner was required to issue an Advisory Action the mailing of which, if after the three-month shortened statutory period, would be used to calculate any extensions of time.

The examiner issued the Advisory Action on August 22, 2005, which was one day prior to the expiration of the six month time period calculated from the mailing date of the final Office Action. A copy of this Advisory Action is attached as Appendix B. This Advisory Action indicated that additional claims had been allowed in response to applicant's amendment filed on April 20, 2005.

Applicant received the Advisory Action on August 25, 2005 and a copy was forwarded to applicant's representative on September 12, 2005. A copy of the cover sheet with applicant's date stamp is attached as Appendix C. A copy of a facsimile transmission cover sheet for the transmission of the Advisory Action from applicant to applicant's representative is attached as Appendix D. Applicant received a Notice of Abandonment (dated September 23, 2005) on September 30, 2005, and subsequently instructed applicant's representative to revive the application. A copy of the Notice of Abandonment is attached at Appendix E.

Applicant was unable to file a response to the examiner's Advisory Action in a timely manner because applicant did not receive the Advisory Action until after the six month time period. Applicant respectfully asserts that any delay in a reply by the applicant was unavoidable due to delay on the part of the United States Patent & Trademark Office (USPTO). Thus, applicant hereby petitions to revive the abandoned application under 37 CFR 1.137(a).

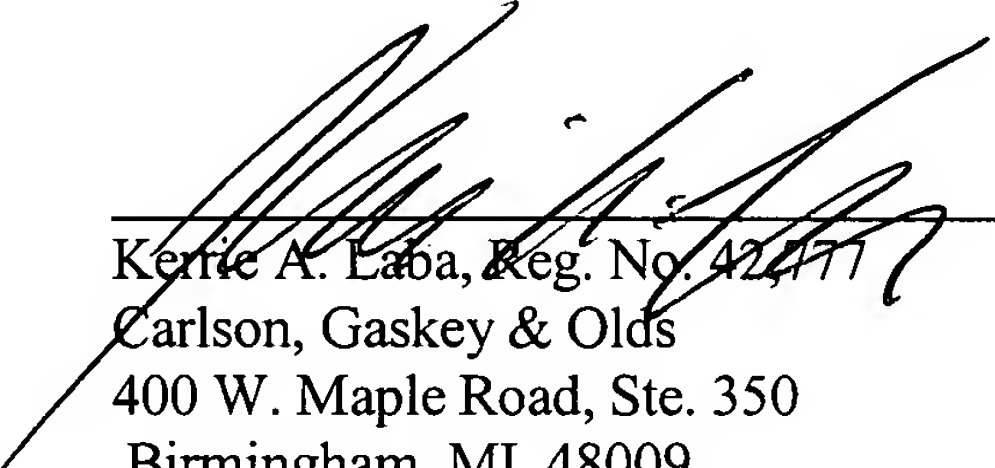
A reply to the Advisory Action, taking the allowed claims, is being submitted along with this petition. The petition fee required by 37 CFR 1.17(l) may be charged to deposit account number 50-1482 in the name of Carlson, Gaskey & Olds.

However, should the USPTO hold that the abandonment was not unavoidable, then applicant submits that the abandonment of the present application was unintentional under 37

CFR 1.137(b). Applicant hereby petitions to have this application revived as having been unintentionally abandoned. Any delay in the filing of the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The petition fee required by 37 CFR 1.17(m) may be charged to deposit account number 50-1482 in the name of Carlson, Gaskey & Olds.

Applicant respectfully requests that the application be revived and the attached amendment be entered, such that a Notice of Allowance can be issued. Applicant believes no additional fees are required, however, any addition fees may be charged to deposit account number 50-1482 in the name of Carlson, Gaskey & Olds.

Respectfully submitted,

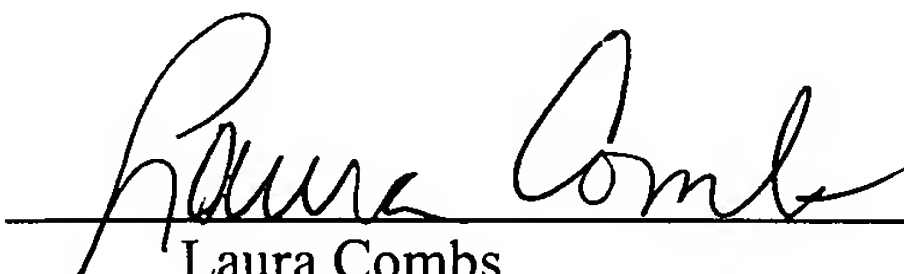


Kerie A. Laba, Reg. No. 42,171
Carlson, Gaskey & Olds
400 W. Maple Road, Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: October 13, 2005

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (571) 273-8300, on October 13, 2005.



Laura Combs

Auto-Reply Facsimile Transmission



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13 (including cover page)

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Received
Cover
Page

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04/20/2005 WED 15:11 FAX 12489888363 Carlson, Gaskey & Olds

001/013

2002PL3157US01; 60,427-608

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Vanderveen
SERIAL NO.: 10/638,219
FILED: 8/8/2003
GROUP ART: 3747
EXAMINER: Harris, Katrina B.
FOR: Air Cleaner, Valve Cover and Intake Manifold Assembly

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT

Dear Sir:

In response to the final Office Action of February 23, 2005, please amend the above-identified application as follows:

*** TX REPORT ***

TRANSMISSION OK

JOB NO. 0095
DESTINATION ADDRESS 17038729306
PSWD/SUBADDRESS
DESTINATION ID
ST. TIME 04/20 15:11
USAGE T 03'24
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RESULT OK

2002P13157US01; 60,427-608

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AMENDMENT

Dear Sir:

In response to the final Office Action of February 23, 2005, please amend the above-identified application as follows:



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,219 ✓	08/08/2003 ✓	James K. Vanderveen	2002P13157US01; 60,427-60 - 608 ✓	3325
24500	7590	08/22/2005	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			HARRIS, KATRINA B	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 08/22/2005

rem Please find below and/or attached an Office communication concerning this application or proceeding.

INTELLECTUAL PROPERTY
REC'D. 8-25-05
IPD 2002P13157US01
DUE DATE (P) 8-23-05

FOA: 2-23-05

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/638,219

Applicant(s)

VANDERVEEN ET AL.

Examiner

Katrina B. Harris

Art Unit

3747

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

THE REPLY FILED 20 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

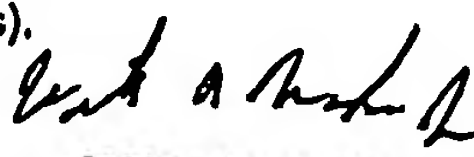
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 2, 9-11, 16 and 25.
Claim(s) rejected: 1, 3-8, 12-15, 17-24 and 26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Regarding claims 1, 4, 21, 23, 24 and 26 the air cleaner (28) is mounted to a cradle member (58), which is attached to the valve cover (20). Regarding claim 3, 18, 19 the abstract states "an intake manifold base having at least one valve cover integrally molded in a bottom of the intake manifold base...". Regarding claim 12, it is a radial seal air filter to the extent claimed. The tube has an enclosed first end and an open second end in fluid communication with said air cleaner outlet (56). Regarding claim 22, the air cleaner walls form a box for substantially enclosing a filter to the extent claimed..
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
13. ☐ Other: _____.


Willis R. Wolfe
Primary Examiner



UNITED STATES PATENT AND TRADEMARK OFFICE

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10/638,219 ✓	08/08/2003 ✓	James K. Vanderveen	2002P13157US01; 60,427-48 - 608 ✓ 3325	
24500	7590	08/22/2005	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			HARRIS, KATRINA B	
			ART UNIT	PAPER NUMBER
			3747	
DATE MAILED: 08/22/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

INTELLECTUAL PROPERTY
 REC'D. 8-25-05
 IPD 2002 P13157US01
 DUE DATE (P) 8-23-05

FOA: 2-23-05

FAX TRANSMISSION

INTELLECTUAL PROPERTY DEPARTMENT

SIEMENS CORPORATION

Iselin, New Jersey 07656

(732) 321-3193

Fax: (732) 321-3014

To: Theodore Olds, Esq.
Carlson, Gaskey & Olds, P.C.

Date: September 12, 2005

Fax #: (248) 988-8363

Pages: 3, including this cover sheet.

From: Pat Musacchio, Siemens

Subject: Our File No.: 2002P13157US01
Your File No.: 60,427-608
US S/N: 10/638219

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Attached please find a copy of an Advisory Action mailed August 22, 2005 that was received for this case. Please respond to the Advisory Action.

Regards.



UNITED STATES PATENT AND TRADEMARK OFFICE

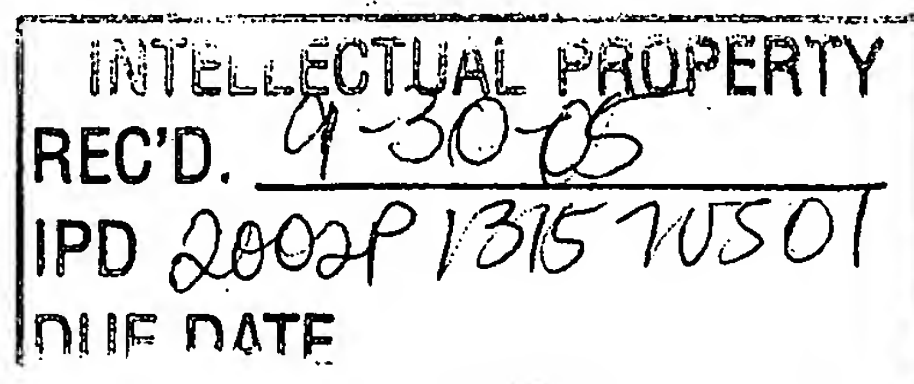
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24500	7590	09/23/2005	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			HARRIS, KATRINA B	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 09/23/2005

DATA
ENTERED

Please find below and/or attached an Office communication concerning this application or proceeding.



Notice of Abandonment

Application No.

10/638,219

Examiner

Katrina B. Harris

Applicant(s)

VANDERVEEN ET AL.

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

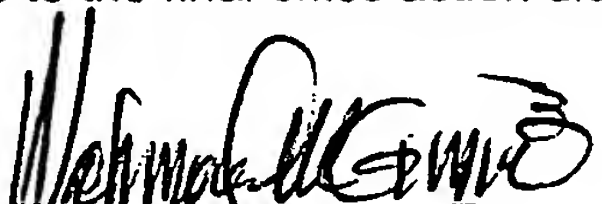
This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 2-22-05.
 - ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - ☒ A proposed reply was received on 4-20-05, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - ☐ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☒ The reason(s) below:

The response to the final office action did not constitute an amendment that places the application in condition for allowance


MAHMOUD GIMIE
PRIMARY EXAMINER

9/21/05

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.